

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

CODY W.,

Plaintiff,

**3:21-cv-515
(GLS/DEP)**

v.

**COMMISSIONER OF SOCIAL
SECURITY,**

Defendant.

SUMMARY ORDER

Pending is an objection to a Report and Recommendation (R&R), (Dkt. No. 19), which, among other things, recommends that defendant Commissioner of Social Security's decision be affirmed, the Commissioner's motion for judgment on the pleadings be granted, and plaintiff Cody W.'s motion for judgment on the pleadings be denied, (Dkt. No. 18). As is pertinent to the objection, the R&R reasons that "[b]ecause [the treating physician's assistant (PA)] is not an acceptable medical source . . . her opinion was not entitled to controlling weight, despite the fact that she reports having a treating relationship with [Cody]." (Dkt. No. 18 at 15.) The R&R also commented that, although the evaluation of the PA's opinion by the administrative law judge (ALJ) was "only marginally

illuminating at best, a reading of his decision as a whole provides a basis for meaningful review.” (*Id.*)

Cody objects to the R&R’s conclusion that the ALJ “adequately evaluated” the PA’s opinion. (Dkt. No. 19 at 1.) Cody repeats arguments made in the underlying briefing that, among other things, the ALJ had an obligation to “look[] at” certain factors in evaluating the opinion and failed to do so, rendering his decision unsupported by substantial evidence. (*Id.* at 2-4; Dkt. No. 12 at 8-11.) Because the substance of the objection was argued in the prior briefing, the objection is general and warrants review for clear error only. See *Almonte v. N.Y. State Div. of Parole*, No. CIV. 904CV484GLS, 2006 WL 149049, at *4-*5 (N.D.N.Y. Jan. 18, 2006).

Having carefully reviewed the R&R and finding no clear error,¹ it is adopted in its entirety.

Accordingly, it is hereby

ORDERED that the Report and Recommendation (Dkt. No. 18) is **ADOPTED** in its entirety; and it is further

ORDERED that the Commissioner’s motion for judgment on the

¹ Notably, the Commissioner responded to Cody’s objection, and provides good reasons for adopting the R&R over the objections, which the court adopts. (Dkt. No. 20.)

pleadings (Dkt. No. 15) is **GRANTED**; and it is further

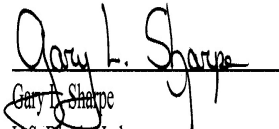
ORDERED that Cody's motion for judgment on the pleadings (Dkt. No. 12) is **DENIED**; and it is further

ORDERED that the decision of the Commissioner is **AFFIRMED** and Cody's complaint (Dkt. No. 1) is **DISMISSED**; and it is further

ORDERED that the Clerk close this case and provide a copy of this Summary Order to the parties in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

September 29, 2022
Albany, New York



Gary L. Sharpe
U.S. District Judge